

Committee on Resources

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**Statement Of
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On
Examining The Impacts Of The Endangered Species Act On Southern New Mexico

To The
Committee on Resources

Monday, June 7, 2004
Pecos River Village, Carousel Building
Carlsbad, New Mexico

Mr. Chairman and members of the Committee, on behalf of the agricultural industry and all New Mexicans, thank you for holding a field hearing in New Mexico on this issue so vital to our livelihoods and futures, and for the opportunity to testify before you.

I am Alisa Ogden. I am a fifth-generation rancher and third-generation farmer on the lands my family settled south of Carlsbad and Loving. My mother's family established our ranch south of Carlsbad in 1890 and my father's father moved the Loving area in 1917 to farm in the newly developed irrigation district. In 1981, I returned home to manage the family ranch. By 1988, my father was ready to retire, so my brother Craig and I became partners in the management of the family farm. We have continued to operate the farm since that time. In addition, I am a single mother of a 10-year-old son, active in my church, philanthropic organizations, as well as agriculture organizations.

I am here today representing Southern New Mexico's agricultural industry, including the New Mexico Cattle Growers' Association (NMCGA).

In theory, the Endangered Species Act (ESA) has its place in the attempt to keep a variety of species from extinction. In reality, it has become our worst nightmare come true. The human factor has been completely ignored in the decision making process. In addition, the use of sound science is not encouraged in determining what species are in need of protection or the best method in protecting them. Too many times, personal agendas have taken precedence over common sense decisions in regards to many species.

The ESA has had tremendous impact on the financial well being and resources of agricultural organizations as well as to individual producers like me. New Mexico's livestock industry has spent well in excess of half a million dollars in attorney's fees alone in attempting to protect agricultural producers and their rights during the past seven years. Despite winning a landmark case on critical habitat designation in 2001, we have had to continue to sue the U.S. Fish & Wildlife Service (FWS) on the same issue time and time again just to obtain compliance with federal law. Even more frustrating is the fact that at the federal level, the FWS has chosen to apply the precedent only in the 10th Circuit Court of Appeals, where the case was decided. Since 2001 we have won the same case two more times on other species.

Given that New Mexico has some 44 endangered, threatened or candidate animal species and 13 plant species, this could be a pretty costly process for producers and their trade groups as well as the federal government.

The ESA is particularly harsh on New Mexico and other Western states because of land ownership patterns. New Mexico is over 60 percent government-owned and made up of a patchwork of private, federal and state lands. Most of our livestock operations contain two, if not all three types of land ownerships. While some say that the ESA does not impact private land use, they are just wrong. If your ranch is made up primarily of federal lands, Bureau of Land Management (BLM) or U.S. Forest Service (USFS), and you are not allowed to use the federal portion of that ranch, the private portion is useless as a livestock operation.

Some people in Southern New Mexico have become almost full-time unpaid employees of the FWS in an attempt to develop a working plan to address the lesser prairie chicken, a candidate species, and keep it from being listed as endangered. At this point in time, this small bird threatens to destroy the ranching and oil and gas industries in this area, which will in turn destroy our rural economy and our families. And if trying to deal with the lesser prairie chicken weren't enough, the working group was recently told that they must also consider the sand dune lizard. To add insult to injury, last month a beetle was added to their list of concerns.

We have hardly begun to address the Northern Aplomado Falcon. Nearly two years ago the NMCGA attempted to work proactively with the FWS in the development of a 10J experimental-nonessential rule that would provide some level of comfort for landowners and federal land users in restoring the bird to the region. Unfortunately, budgetary concerns have limited progress on the proposal and environmental elitist groups are threatening litigation to force the declaration of critical habitat.

There are few on this earth who care for and appreciate animals and our environment more than those of us in production agriculture. We chose to live frugal lives on the land with our animals and the wildlife because we value all they have to offer us --- a life filled with a wealth that money and material possessions can never provide. But we cannot survive under oppressive federal mandates like the ESA.

However, we are not unwilling to be a part of the solution. New Mexico agriculture came together two years ago to identify potential fixes to the ESA that would protect species AND our families. What resulted is the attached 17-item list that has been adopted by the Western States Soil Conservation Districts.

The 2002 Klamath Basin disaster comes to mind for all farmers when the worst case scenario is imagined. Overreaction to a water situation ruined the livelihood of many people, not just those in farming. Closer to home, a minnow, the Pecos Blunt-nose Shiner, has had a great effect on determining when, and even if, water stored in reservoirs on the Pecos River will be delivered for use by farmers in the Carlsbad Irrigation District (CID). In this desert area, there is much data on the most efficient delivery of water from the reservoirs upriver. Every drop counts and in these short water years, it is vital to use the most efficient delivery of water possible. The FWS has tried to have an impact on that water delivery, and many times, a great deal of water would have been lost for use by the farmers in the district if CID had followed FWS desires.

For our farm, that means less water to be used to produce our crops. We do not have supplemental water wells and depend solely on water delivered by the CID. Water is our make or break factor, without the water delivered by CID, we cannot survive as farmers. With all that Mother Nature sends our way, we do not need shortsighted governmental regulations to battle also.

A lot of blood, sweat and frustrations have kept these lands together. Most of the time, nature was the factor we had no control over. We plugged on though and have persevered. Every person involved in production agriculture expects the weather to throw some curves. It is the curves thrown to us by our government that may be what, after all these years, defeats us.

Thank you once again for your time and interest. I hope that together we can create a law that achieves the noble goal of species protection without harming people like me and my family.